IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Rishi & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 753/2003

and

Rishi & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 756/2003

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Date of Order: December 15, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mrs. Deepika Vyas, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
None present for the non-petitioner No.2.

BY THE COURT:

Both these criminal miscellaneous petitions under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) are directed against the order dated 28.8.2002 passed by the Additional Chief Judicial Magistrate,. Nohar, district Hanumangarh (for short, "the trial Court" hereinafter) in Criminal Cases No. 133/2002 (233/2002) and 232/2002 respectively, whereby the trial Court took cognizance

of the offence under Section 500 IPC and issued process against the petitioners. Both the criminal miscellaneous petitions involve common questions of law and facts and are between the same parties, therefore, with the consent of the learned counsel for the parties, they are being heard and decided together.

The facts and circumstances giving rise to both the criminal miscellaneous petitions are that the residents of Bordiyon Ka Mohalla, Ward No.8, Nohar, who are hundreds in number, reported the matter to the police alleging certain activities, which according to the residents of Bardiyon Ka Mohalla, are involving certain anti-social activities including ill-teasing the girls, outraging the modesty of women, trading in illicit liquor, gambling etc. On the basis of the said report, the non-petitioner No.2 filed a complaint before the trial Court and by the order impugned, the trial Court took cognizance of the offence and issued the process against the petitioners.

It is contended by the learned counsel for the petitioners that the report to the police is not a defamatory and the residents of a particular locality, i.e. Bardiyon Ka Mohalla, Ward No.8, Nohar, who are hundreds in number, having noticed the anti-social activities of various persons named therein, brought the matter to the notice of the police and, therefore, they had never intended that the report to the police will cause harm or knowing or having reason to believe that such report

will harm the reputation of the persons named therein and, therefore, according to the learned counsel, the report was lodged in good faith disclosing the true facts to the police inviting the attention of the police of the area to curb the anti-social activities and, therefore, the case of the petitioner falls in the exceptions, more particularly the First Exception, which provides for imputation of truth which public good requires to be made or published. The First Exception provides that it is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the pubic good is a question of fact.

Be that as it may, from a careful perusal of the report lodged to the police by the people of the area of Ward No.8, Bardiyon Ka Mohalla, Nohar, who are hundreds in number, it cannot be said that by submitting the report to the police, they intended to harm or had knowledge or reason to believe that such report would harm the reputation of the persons named in the report. These are the facts of certain activities undertaken by various persons named in the report to the police, which according to the complainant could be the anti-social activities, including ill-teasing the girls, outraging the modesty of women, trading in illicit liquor and gambling etc. If the facts stated therein are true, they are anti-social activities and the

true facts have been brought to the police. However, whether those facts are true or not, is the matter of fact, but at any rate, what has been stated to the police is in good faith by the petitioners and hundreds of other members of the locality of Bardioyon Ka Mohalla, Ward No.8, Nohar. In my view, the trial Court fell in error in passing the impugned order. In this view of the matter, the impugned order cannot be sustained and is liable to be set aside.

Consequently, both the criminal miscellaneous petitions are allowed. The impugned order dated 28-8-2002 passed by the trial Court in Criminal Cases No. 133/2002 (233/2002) and 232/2002 are set aside. The stay petitions stand disposed of.

(H.R. PANWAR), J.

mcs